



## **LIBRARY OF CONGRESS**

### **Copyright Office**

#### **37 CFR Parts 201, 202, 211, and 212**

**[Docket No. 2018-1]**

#### **Streamlining the Single Application and Clarifying Eligibility Requirements**

**AGENCY:** U.S. Copyright Office, Library of Congress.

**ACTION:** Final rule.

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**SUMMARY:** The U.S. Copyright Office is amending its regulations to update the eligibility requirements for its application forms to reflect recent technical updates. The final rule clarifies that the Single Application may be used to register one work that is created and solely owned by one author and is not a work made for hire. It also confirms that this application may be used to register one sound recording and one musical work, literary work, or dramatic work, notwithstanding the fact that a sound recording and the work embodied in that recording are separate works. The final rule further clarifies the eligibility requirements for the Standard Application, which may be used to register certain works that are not eligible for the Single Application. It updates the eligibility requirements for the paper applications of both the Single Application and Standard Application by clarifying that these forms may be certified with a typed, printed, or handwritten signature, and by eliminating the “short form” version of these forms. The rule also makes several technical amendments to the regulations governing preregistration, mask works, vessel designs, the unit of publication registration option, and the group registration option for database updates.

**DATES:** Effective [INSERT 30 DAYS AFTER DATE OF PUBLICATION IN THE

**FEDERAL REGISTER].**

**FOR FURTHER INFORMATION CONTACT:** Robert J. Kasunic, Associate

Register of Copyrights and Director of Registration Policy and Practice; Erik Bertin, Deputy Director of Registration Policy and Practice; or Anna Bonny Chauvet, Assistant General Counsel, by telephone at 202–707–8040 or by email at *rkas@copyright.gov*, *ebertin@copyright.gov*, or *achau@copyright.gov*.

**SUPPLEMENTARY INFORMATION:** Section 408(a) of the Copyright Act provides that a copyright owner or the owner of any of the exclusive rights in a work may seek a registration by delivering an application, filing fee, and an appropriate deposit to the U.S. Copyright Office (the “Office”). 17 U.S.C. 408(a). The statute gives the Register of Copyrights the authority to issue regulations concerning the specific nature of the deposit that should be submitted, the amount of the fee, and the information that should be included in the application. 17 U.S.C. 408(c)(1), 409(10), 702, 708(b).

On February 6, 2018, the Office issued a notice of proposed rulemaking (the “NPRM”) proposing to update the regulations governing its application forms to coincide with technical upgrades to its current electronic registration system. 83 FR 5227 (Feb. 6, 2018). The NPRM proposed changes to the regulations governing the Single Application to reflect changes in the Office’s electronic registration system and made a number of technical amendments. With respect to the Single Application, the proposed rule clarified that the Single Application may be used if (i) the claim is limited to one work, (ii) the work was created by one individual, (iii) all of the content appearing in the work was created by that individual, (iv) the author is sole owner of all rights in the work, and (v) the work is not a work made for hire. *See* 83 FR at 5228, 5229.

One exception is made for sound recordings that embody separate musical, literary, or dramatic works. The NPRM explained current Copyright Office practice that the Single Application may be used to register one sound recording and one musical work, literary work, or dramatic work together if certain requirements have been met, notwithstanding the fact that a sound recording and the work embodied in that recording are separate works. In particular, (i) the author of the sound recording and the work embodied in that recording must be the same individual, (ii) the author must own the copyright in both works, and (iii) the author must be the only performer featured in the recording. *See id.* at 5228. The Office also invited comment on whether the last requirement should be modified to allow for situations where other performers are featured in the sound recording. *See id.* at 5228–29.

Finally, the NPRM made clear that the Single Application may be submitted by the author/owner of the work or by a duly authorized agent of the author/owner, provided that the agent is identified in the correspondent section of the application. The Office noted that the filing fee for the Single Application is lower than the fee required for its other applications, but that the vast majority of these claims are submitted by publishers, producers, distributors, or other corporate entities. The Office thus questioned whether these types of entities need a discounted filing fee, and invited comment on whether they should be allowed to submit the Single Application on the author/owner's behalf. *See id.* at 5229.

The NRPM also proposed a number of technical amendments. First, the NPRM made explicit Copyright Office practice that the Standard Application may be used to register any work that is eligible for registration under sections 408(a) and 409 of the

Copyright Act, but it may not be used to seek a supplementary registration, a registration for a restored work, or a registration for a mask work or vessel design. It also clarified that the Standard Application may not be used to seek a group registration unless it is specifically permitted by the regulations. *See id.*

Second, the proposed rule updated the regulations governing paper applications by clarifying that these forms may be certified with a typed, printed, or handwritten signature. *See id.*<sup>1</sup>

Third, the proposed rule eliminated the “short form” version of the paper applications. *See id.* at 5229–30.

Fourth and finally, the proposed rule removed the word “single” from various places in the regulations to avoid potential confusion with the Single Application.

The Office received one comment from one individual who expressed support for allowing “the Single Application to be used to register one sound recording and one musical work, literary work, or dramatic work notwithstanding the fact that a sound recording and the work embodied in that recording are separate works.”<sup>2</sup> Accordingly, the Office is issuing a final rule nearly identical to the proposed rule, with a few additional technical changes. First, the final rule accounts for amendments resulting from a recent final rule on group registration of newsletters and serials. *See* 83 FR 61546 (Nov. 30, 2018). Second, the rule clarifies that claims should be submitted for registration in the administrative class that is most appropriate for the work being claimed, regardless of

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<sup>1</sup> The proposed rule made this change only with respect to copyright registration applications submitted on paper. The final rule eliminates the handwritten signature requirements in other kinds of paper forms as well. *See* 37 CFR 202.17(g)(2)(ii)(B) (Form RE); *id.* § 211.4(b)(3)(ii) (Form MW); *id.* 212.8(c)(1)(x)(A) (Form DC).

<sup>2</sup> A copy of this comment may be found on the Office’s website at <https://www.copyright.gov/rulemaking/streamlining-single/>.

whether the paper or online application is used, and that sound recording claims should be submitted for registration in Class SR.

The Office did not receive comments on any other aspect of the proposed rule, including the Office's question whether the author of a sound recording that features performers other than the author should be allowed to use the Single Application. The Office is accordingly maintaining the requirement that the author of the sound recording be the only performer on (and thus the sole author of) the sound recording. The Office remains open to revisiting this requirement in the course of its registration modernization process and encourages interested members of the public to provide views on this question in connection with those efforts. Similarly, due to the lack of comment, the Office is maintaining the ability for third parties to file Single Applications on behalf of the author/owner of the work, but will continue to monitor the usage of the Single Application. If corporate entities continue to be the predominant users of the Single Application, the Office may narrow the eligibility requirements, or reevaluate the need for that application entirely.

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## **List of Subjects**

### ***37 CFR Part 201***

Cable television, Copyright, Jukeboxes, Recordings, Satellites.

### ***37 CFR Part 202***

Claims, Copyright.

### ***37 CFR Part 211***

Computer technology, Science and technology, Semiconductor chip products.

**37 CFR Part 212**

Vessels.

**Final Regulations**

For the reasons set forth in the preamble, the Copyright Office amends 37 CFR parts 201, 202, 211, and 212 as follows:

**PART 201 – GENERAL PROVISIONS**

1. The authority citation for part 201 continues to read as follows:

**Authority:** 17 U.S.C. 702.

2. In § 201.3, revise paragraph (c)(1) introductory text to read as follows:

**§201.3 Fees for registration, recordation, and related services, special services, and services performed by the Licensing Division.**

\* \* \* \* \*

(c) \* \* \*

<b>Registration, recordation and related services</b>	<b>Fees (\$)</b>
(1) Registration of a claim in an original work of authorship:	
* * * * *	

\* \* \* \* \*

**PART 202 - PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT**

3. The authority citation for part 202 continues to read as follows:

**Authority:** 17 U.S.C. 408(f), 702.

4. Amend § 202.3 as follows:

a. Revise the heading for paragraph (b)(2)(i) and add introductory text to paragraph (b)(2)(i).

b. Revise paragraphs (b)(2)(i)(A) and (B).

c. In paragraph (b)(2)(i)(C):

i. Remove the word “submission” and add in its place “application”;

ii. Remove the words “application fee” and add in their place “filing fee”; and

iii. Remove the word “fund” and add in its place “funds”.

c. In paragraph (b)(2)(i)(D), remove the word “payment” and add in its place “filing fee”.

d. Add a heading to paragraph (b)(2)(ii) and revise paragraph (b)(2)(ii)(A).

e. Remove paragraphs (b)(2)(ii)(B) and (C).

f. Redesignate paragraph (b)(2)(ii)(D) as paragraph (b)(2)(ii)(B).

g. Redesignate paragraph (b)(3) as paragraph (b)(2)(ii)(C) and remove the heading from newly redesignated paragraph (b)(2)(ii)(C).

h. Add paragraph (b)(2)(iii) and reserve paragraph (b)(3).

i. In paragraph (b)(5)(i) introductory text, remove the words “a single application” and add in their place “one application” and remove the words “a single registration” and add in their place “a group registration”.

j. In paragraph (b)(5)(i)(F), remove the words “a single” and add in their place “the same”.

k. In paragraph (b)(5)(ii) introductory text:

i. Remove the words “single registration” and add in their place “group registration”;

- ii. Remove the words “a single date” wherever they appear and add in their place “one date”; and
- iii. Remove the words “a single calendar” and add in their place “the same calendar”.
- l. In paragraph (b)(5)(ii)(A), remove “(b)(2)” and add in its place “(b)(2)(ii)(A).”
- m. Revise paragraphs (c)(1) through (3).

The revisions and additions read as follows:

**§ 202.3 Registration for copyright.**

\* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) *Online applications.* An applicant may submit a claim through the Office’s electronic registration system using the Standard Application, the Single Application, or the applications designated in § 202.4.

(A) The Standard Application may be used to register a work under sections 408(a) and 409 of title 17, including a work by one author, a joint work, a work made for hire, a derivative work, a collective work, or a compilation. The Standard Application may also be used to register a unit of publication under paragraph (b)(4) of this section, or a sound recording and a literary, dramatic, or musical work under paragraphs (b)(1)(iv)(A) through (C) of this section.

(B)(I) The Single Application may be used only to register one work by one author. All of the content appearing in the work must be created by the same individual. The work must be owned by the author who created it, and the author and the claimant must be the same individual.



(2) The Single Application may be used to register one sound recording and one musical work, dramatic work, or literary work if the conditions set forth in paragraphs

(b)(1)(iv)(A) through (C) and (b)(2)(i)(B)(I) of this section have been met.

(3) The following categories of works may *not* be registered using the Single Application:

collective works, databases, websites, architectural works, choreographic works, works made for hire, works by more than one author, works with more than one owner, or works eligible for registration under § 202.4 or paragraph (b)(4) or (5) of this section.

\* \* \* \* \*

(ii) *Paper applications.* (A) An applicant may submit an application using one of the printed forms prescribed by the Register of Copyrights. Each form corresponds to one of the administrative classes set forth in paragraph (b)(1) of this section. These forms are designated “Form TX,” “Form PA,” “Form VA,” “Form SR,” and “Form SE.” These forms may be used to register a work under sections 408(a) and 409 of title 17, including a work by one author, a joint work, a work made for hire, a derivative work, a collective work, or a compilation.

\* \* \* \* \*

(iii) *Application class.* Applications should be submitted in the class most appropriate to the nature of the authorship in which copyright is claimed. In the case of contributions to collective works, applications should be submitted in the class representing the copyrightable authorship in the contribution. In the case of derivative works, applications should be submitted in the class most appropriately representing the copyrightable authorship involved in recasting, transforming, adapting, or otherwise modifying the preexisting work. In cases where a work contains elements of authorship in which

copyright is claimed that fall into two or more classes, the application should be submitted in the class most appropriate to the predominant type of authorship in the work as a whole. However, in any case where registration is sought for a work consisting of or including a sound recording in which copyright is claimed, the application shall be submitted for registration in Class SR.

\* \* \* \* \*

(c) \* \* \*

(1) As a general rule, an application for copyright registration may be submitted by any author or other copyright claimant of a work, the owner of any exclusive right in a work, or the duly authorized agent of any such author, other claimant, or owner. A Single Application, however, may be submitted only by the author/claimant or by a duly authorized agent of the author/claimant, provided that the agent is identified in the application as the correspondent.

(2) All applications shall include the information required by the particular form, and shall be accompanied by the appropriate filing fee, as required in § 201.3(c) of this chapter, and the deposit required under 17 U.S.C. 408 and § 202.20, § 202.21, or § 202.4, as appropriate.

(3) All applications submitted for registration shall include a certification.

(i) As a general rule, the application may be certified by an author, claimant, an owner of exclusive rights, or a duly authorized agent of the author, claimant, or owner of exclusive rights. A Single Application, however, may be certified only by the author/claimant or by a duly authorized agent of the author/claimant.

(ii) For online applications, the certification shall include the typed name of a party identified in paragraph (c)(3)(i) of this section. For paper applications, the certification shall include the typed, printed, or handwritten signature of a party identified in paragraph (c)(3)(i) of this section, and if the signature is handwritten it shall be accompanied by the typed or printed name of that party.

(iii) The declaration shall state that the information provided within the application is correct to the best of the certifying party's knowledge.

(iv) For online applications, the date of the certification shall be automatically assigned by the electronic registration system on the date the application is received by the Copyright Office. For paper applications, the certification shall include the month, day, and year that the certification was signed by the certifying party.

(v) An application for registration of a published work will not be accepted if the date of certification is earlier than the date of publication given in the application.

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#### **§ 202.16 [Amended]**

5. Amend § 202.16(c)(4) by:

- a. Removing the words "Preregistration as a single work" and add in their place "Unit of publication";
- b. Removing the words "a single application" and add in their place "one application";
- c. Removing the words "a single preregistration fee" and add in their place "one filing fee";
- d. Removing the words "a single unit" and add in its place "the same unit"; and
- e. Removing the words "a single work" and add in their place "one work".

6. Amend § 202.17 by revising paragraph (g)(2)(ii)(B) to read as follows:

**§ 202.17 Renewals.**

\* \* \* \* \*

(g) \* \* \*

(2) \* \* \*

(ii) \* \* \*

(B) The typed, printed, or handwritten signature of such claimant, successor or assignee, or agent, accompanied by the typed or printed name of that person if the signature is handwritten;

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**PART 211 – MASK WORK PROTECTION**

7. The authority citation for part 211 continues to read as follows:

**Authority:** 17 U.S.C. 702, 908.

8. Amend § 211.4 by revising paragraphs (b)(3)(ii) and (d) introductory text to read as follows:

**§ 211.4 Registration of claims of protection in mask works.**

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(ii) The typed, printed, or handwritten signature of the applicant, accompanied by the typed or printed name of that person if the signature is handwritten.

\* \* \* \* \*

(d) *Registration for one mask work*. Subject to the exceptions specified in paragraph (c)(2) of this section, for purposes of registration on one application and upon payment of one filing fee, the following shall be considered one work:

\* \* \* \* \*

## **PART 212 –PROTECTION OF VESSEL DESIGNS**

9. The authority citation for part 212 continues to read as follows:

**Authority:** 17 U.S.C. chapter 13.

10. Amend § 212.3 as follows:

a. In paragraph (f)(1):

- i. Remove the words “a single make” and add in their place “the same make”;
- ii. Remove the words “a single application” and add in their place “one application”;
- iii. Remove the words “used for all designs” and add in their place “used to register all the designs”; and
- iv. Remove both instances of the words “each of the designs” and add in their place “each design”.

b. Revise paragraph (f)(2).

c. In paragraph (f)(4), remove the words “a single” and add in their place “one”.

The revision reads as follows:

### **§ 212.3 Registration of claims for protection of eligible designs.**

\* \* \* \* \*

(f) \* \* \*

(2) *One application*. Where one application for multiple designs is appropriate, a separate Form D-VH/CON must be used for each design beyond the first appearing on

Form D-VH. Each Form D-VH/CON must be accompanied by deposit material identifying the design that is the subject of the Form D-VH/CON, and the deposit material must be attached to the Form D-VH/CON. The Form D-VH and all the Form D-VH/CONs for the application must be submitted together.

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11. Amend § 212.8 by revising paragraphs (c)(1)(x)(A) and (B) to read as follows:

**§ 212.8 Correction of errors in certificates of registration.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(x) \* \* \*

(A) The typed, printed, or handwritten signature of the owner of the registered design or of the duly authorized agent of such owner (who shall also be identified);

(B) The date of the signature and, if the signature is handwritten, the typed or printed name of the person whose signature appears; and

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Dated: November 30, 2018.

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**Karyn A. Temple,**  
*Acting Register of Copyrights and  
Director of the U.S. Copyright Office.*

Approved by:

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**Carla D. Hayden,**  
*Librarian of Congress.*

**[BILLING CODE 1410-30-P]**

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